

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

WNT, LLC, *et al.*,

Case No. 24-cv-00959 (JMB/ECW)

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

MORELOS BAKERY LLC,

Case No. 24-cv-00966 (JMB/ECW)

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

UP AT 4, INC.,

Case No. 24-cv-00970 (JMB/ECW)

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

QUARTERBACK CLUB, *et al.*,

Case No. 24-cv-01017 (JMB/ECW)

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

BW-SS, INC.,

Case No. 24-cv-01047 (JMB/ECW)

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

BOCA BOTANA'S INC.,

Case No. 24-cv-01106 (JMB/ECW)

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

KING KULLEN GROCERY CO., INC.,

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

Case No. 24-cv-01122 (JMB/ECW)

RALEIGH GOLDEN,

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

Case No. 24-cv-01129 (JMB/ECW)

PIALA LLC,

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

Case No. 24-cv-01232 (JMB/ECW)

THE UNION PUBLIC HOUSE, LLC,

Case No. 24-cv-01292 (JMB/ECW)

Plaintiff,

v.

AMERICAN SUGAR REFINING, INC.,  
*et al.*,

Defendants.

WILSON COFFEE HOUSE, LLC,

Case No. 24-cv-01322 (JMB/ECW)

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

CORBOS DELI SOUTHSIDE, LLC, *et al.*,

Case No. 24-cv-01370 (JMB/ECW)

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

NORTHERN FROZEN FOODS, INC.,

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

Case No. 24-cv-01414 (JMB/ECW)

NINETEENSEVENTYNINE LLC, *et al.*,

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

Case No. 24-cv-01525 (JMB/ECW)

TRIPLE ELM COFFEE AND ICE  
CREAM, LLC,

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

Case No. 24-cv-01536 (JMB/ECW)

MODERN PASTRY SHOP, INC.,

Case No. 24-cv-01537 (JMB/ECW)

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

COWBELL GRILL & TAP, LLC, *et al.*,

Case No. 24-cv-01539 (JMB/ECW)

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

PORLAND HUNT-ALPINE CLUB,  
LLC,

Case No. 24-cv-01560 (JMB/ECW)

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

WESTERN AXE LLC,

Case No. 24-cv-01653 (JMB/ECW)

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

NATILE INC, *et al.*,

Case No. 24-cv-01654 (JMB/ECW)

Plaintiff,

v.

AMERICAN SUGAR REFINING, INC.,  
*et al.*,

Defendants.

MARY SALAZAR, *et al.*,

Case No. 24-cv-01847 (JMB/ECW)

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE., *et al.*,

Defendants.

PATTIBAKES LLC,

Plaintiff,

v.

AMERICAN SUGAR REFINING, INC.,  
*et al.*,

Defendants.

Case No. 24-cv-01847 (JMB/ECW)

JENNIVEE'S BAKERY, LLC,

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

Case No. 24-cv-01848 (JMB/ECW)

2<sup>nd</sup> PITT LLC,

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

Case No. 24-cv-01859 (JMB/ECW)

HU-YU, INC. d/b/a CITY WOK,

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

Case No. 24-cv-01903 (JMB/ECW)

JM HOSPITALITY GROUP, LLC,

Plaintiff,

v.

AMERICAN SUGAR REFINING, INC.,  
*et al.*,

Defendants.

Case No. 24-cv-01907 (JMB/ECW)

KLUESSENDORF,

Plaintiff,

v.

UNITED SUGAR PRODUCERS &  
REFINERS COOPERATIVE, *et al.*,

Defendants.

Case No. 24-cv-01913 (JMB/ECW)

KEDZIE BOULEVARD CAFÉ, INC.,

Plaintiff,

v.

ASR GROUP INTERNATIONAL, INC.,  
*et al.*,

Defendants.

Case No. 24-cv-01949 (JMB/ECW)

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' JOINT MOTION  
TO CONSOLIDATE AND COORDINATE ACTIONS**

This complex litigation comprises 28 related antitrust actions filed in this District alleging that Defendants unlawfully conspired to fix, maintain, and raise to supracompetitive levels the price of Granulated Sugar<sup>1</sup> in the United States. These actions include one direct purchaser plaintiff action (“DPP Action”),<sup>2</sup> three consumer indirect purchaser plaintiff actions (“Consumer Action”),<sup>3</sup> and 24 commercial and institutional indirect purchaser plaintiff actions (“CIIPP Actions”).<sup>4</sup> The DPP Action, the Consumer Action, and the CIIPP Actions are collectively referred to herein as the “Related Actions.”

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<sup>1</sup> “Granulated Sugar” is ordinary, white, table sugar made from cane sugar or beet sugar.

<sup>2</sup> The DPP Action is *Northern Frozen Foods, Inc. v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01414 (D. Minn.) (“Northern”).

<sup>3</sup> The Consumer Actions are *Raleigh Golden v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01129 (D. Minn.) (“Golden”); *Salazar v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01847 (JMB/ECW) (D. Minn.) (“Salazar”); and *Kluessendorf v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01913 (JMB/ECW) (D. Minn.) (“Kluessendorf”).

<sup>4</sup> The CIIPP Actions are: (1) *WNT, LLC, et al. v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-00959 (D. Minn.) (“WNT”); (2) *Morelos Bakery LLC*

Plaintiffs respectfully move pursuant to Federal Rule of Civil Procedure 42(a) for an order consolidating the cases within each track and coordinating all the tracks. Plaintiffs

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v. *United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-00966 (D. Minn.); (3) *Up at 4, Inc. v. ASR Group International, Inc., et al.*, Case No. 24-cv-00970 (D. Minn.); (4) *Quarterback Club, et al. v. ASR Group International, Inc., et al.*, Case No. 24-cv-01017 (D. Minn.); (5) *BW-SS, Inc. v. ASR Group International, Inc., et al.*, Case No. 24-cv-01047 (D. Minn.); (6) *Boca Botana's Inc. v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01106 (D. Minn.); (7) *King Kullen Grocery Co., Inc. v. ASR Group International, Inc., et al.*, Case No. 24-cv-01122 (D. Minn.); (8) *Piala LLC v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01232 (D. Minn.); (9) *The Union Public House, LLC v. American Sugar Refining, Inc., et al.*, Case No. 24-cv-01292 (D. Minn.); (10) *Wilson Coffee House, LLC v. ASR Group International, Inc., et al.*, Case No. 24-cv-01322 (D. Minn.); (11) *Corbos Deli Southside, LLC, et al. v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01370 (D. Minn.); (12) *Nineteenseventynine LLC, et al. v. ASR Group International, Inc., et al.*, Case No. 24-cv-01525 (D. Minn.); (13) *Triple Elm Coffee and Ice Cream, LLC v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01536 (D. Minn.); (14) *Modern Pastry Shop, Inc. v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01537 (D. Minn.); (15) *Cowbell Grill & Tap, LLC, et al. v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01539 (D. Minn.); (16) *Portland Hunt-Alpine Club, LLC v. ASR Group International, Inc.*, Case No. 24-cv-01560 (D. Minn.); (17) *Western Axe LLC v. ASR Group International, Inc., et al.*, Case No. 24-cv-01653 (D. Minn.); (18) *Natile Inc., et al. v. American Sugar Refining, Inc., et al.*, Case No. 24-cv-01654 (D. Minn.); *Pattibakes LLC v. American Sugar Refining, Inc., et al.*, Case No. 24-cv-01812 (D. Minn.); *Jennivee's Bakery, LLC v. ASR Group International, Inc., et al.*, Case No. 24-cv-01848 (D. Minn.); *2<sup>nd</sup> Pitt LLC, v. ASR Group International, Inc., et al.*, Case No. 24-cv-01859 (D. Minn.); *Hu-Yu, Inc. d/b/a City Wok v. ASR Group International, Inc., et al.*, Case No. 24-cv-01903 (D. Minn.); *JM Hospitality Group, LLC, v. American Sugar Refining, Inc., et al.*, Case No. 24-cv-01907 (D. Minn.); and *Kedzie Boulevard Café, Inc. v. ASR Group International, Inc., et al.*, Case No. 24-cv-01949 (D. Minn.). Counsel for all of these actions join this motion with the exception of the following three cases: 1) *Triple Elm Coffee and Ice Cream, LLC v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01536 (D. Minn.); (2) *Modern Pastry Shop, Inc. v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01537 (D. Minn.); and (3) *Cowbell Grill & Tap, LLC, et al. v. United Sugar Producers & Refiners Cooperative, et al.*, Case No. 24-cv-01539 (D. Minn.). Filing counsel reached out to counsel for these three actions to inquire whether they would join this motion but were unsuccessful. Filing counsel believes these three actions are appropriate for consolidation with the other cases but have not been able to confirm their joinder in this motion.

in each Related Action consent to this motion, and Defendants take no position on this motion at this time but reserve the right to respond in due course once this motion is filed.

## I. BACKGROUND

The Related Actions are substantially similar and involve the same nucleus of operative facts.<sup>5</sup> Each complaint defines a class that includes purchasers of Granulated Sugar in the United States, with the DPP Action filing on behalf of entities that purchased directly from the Producer Defendants<sup>6</sup> or any of their co-conspirators,<sup>7</sup> the Consumer Action filing on behalf of a class of consumers that purchased indirectly for their personal use and not for resale,<sup>8</sup> and the CIIPP Actions filing on behalf of businesses or organizations who indirectly purchased Granulated Sugar for use in commercial food and beverage preparation and product manufacturing or production.<sup>9</sup>

The complaints assert similar factual allegations and legal claims: the Producer Defendants, the largest players in the domestic Granulated Sugar market, exchanged information – directly and indirectly – regarding competitively sensitive metrics in order

<sup>5</sup> As the Related Actions assert similar claims, for reference, Plaintiffs will cite to the first complaint filed in each proposed track: *Northern* for the DPP Action; *Golden* for the Consumer Action; and *WNT* for the CIIPP Actions.

<sup>6</sup> The Producer Defendants are the largest players in the domestic Granulated Sugar market, including United Sugar Producers & Refiners Cooperative f/k/a United Sugars Corporation; American Sugar Refining, Inc.; ASR Group International, Inc.; Domino Foods, Inc.; Cargill, Inc.; and/or Michigan Sugar Company. Not all of the Related Actions name Cargill, Inc. as a defendant.

<sup>7</sup> *Northern* Compl. ¶ 82.

<sup>8</sup> *Golden* Compl. ¶¶ 77-78.

<sup>9</sup> See, e.g., *WNT* Compl. ¶¶ 76-77.

to avoid price competition and to fix prices at supracompetitive levels.<sup>10</sup> They further allege that the Producer Defendants shared and received information through Commodity Information, Inc., and its principal and industry analyst Richard Wistisen.<sup>11</sup> They allege that instead of using this competitively sensitive information to undercut each other on price and overtake market share, they use the information as reassurance that cartel members are adhering to the conspiracy and declining to pursue the market share of other members.<sup>12</sup> They allege that this conspiracy allows the Producer Defendants to artificially raise, fix, maintain, or stabilize prices of Granulated Sugar at supracompetitive levels, resulting in Plaintiffs and members of the Classes paying supracompetitive prices for Granulated Sugar in the United States.<sup>13</sup>

Based on these allegations, each Related Action asserts causes of action for violations of Section 1 of the Sherman Act (15 U.S.C. § 1),<sup>14</sup> and each indirect purchaser action also alleges that these practices violated state laws.<sup>15</sup> Some actions also allege violation of Section 3 of the Sherman Act (15 U.S.C. § 3).<sup>16</sup>

## II. ARGUMENT

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<sup>10</sup> See, e.g., *Northern* Compl. ¶ 4; *Golden* Compl. ¶ 2; *WNT* Compl. ¶¶ 2-3.

<sup>11</sup> See, e.g., *Northern* Compl. ¶¶ 2, 5; *Golden* Compl. ¶¶ 3-4; *WNT* Compl. ¶¶ 3, 21-22 .

<sup>12</sup> See, e.g., *Northern* Compl. ¶ 6; *Golden* Compl. ¶¶ 41; *WNT* Compl. ¶ 48.

<sup>13</sup> See, e.g., *Northern* Complaint ¶ 7; *Golden* Complaint ¶¶ 4-5; *WNT* Complaint ¶ 4.

<sup>14</sup> See, e.g., *Northern* Complaint ¶¶ 96-103; *Golden* Complaint ¶¶ 95-104; *WNT* Complaint ¶¶ 94-99.

<sup>15</sup> See, e.g., *Golden* Complaint ¶¶ 105-179; *WNT* Complaint ¶¶ 100-166.

<sup>16</sup> See, e.g., *Northern* Complaint ¶¶ 96-103.

Federal Rule of Civil Procedure 42(a) provides a district court with three options when actions involve a common question of law or fact: (1) the court may join for hearing or trial any or all matters at issue in the actions; (2) the court may consolidate the actions; or (3) the court may issue any other orders to avoid unnecessary cost or delay. *See Fed. R. Civ. P. 42(a)*. The district court is given this discretion “as a matter of convenience and economy in judicial administration,” and in consideration of the time, efforts, and expenses that can be saved, “district courts generally take a favorable view of consolidation.”<sup>9</sup> Charles A. Wright & Arthur R. Miller, *Federal Practice & Procedure* § 2383 (2d ed.1994).

In considering consolidation, a court should thoughtfully weigh the risks of prejudice and possible confusion in a single lawsuit versus the risk of inconsistent adjudications of common factual and legal issues in multiple lawsuits, as well as the relative burdens, lengths of time, and expenses associated with a single lawsuit versus multiple lawsuits. *See Chill v. Green Tree Financial Corp.*, 181 F.R.D. 398, 405 (D. Minn. 1998) (citations omitted). Given the significant overlap of factual and legal issues in these cases, all these factors weigh strongly in favor of consolidation of cases within each track, and coordination of the tracks.

As described above, all the Related Actions arise from the same nucleus of operative facts, name substantially the same defendants, and assert substantially similar claims for relief. Additionally, as also described above, each Related Action seeks relief on behalf of one or more proposed classes. One seeks relief on behalf of all DPPs, another seeks relief on behalf of all Consumers, and the rest seek relief on behalf of all CIIPPs. Furthermore, all the cases have been assigned, or reassigned based on related case principles, to Judge

Jeffrey Bryan and Magistrate Judge Elizabeth Cowan Wright. This will likely be true for all additional cases related to Granulated Sugar pricing that are subsequently filed in or transferred to this Court. In light of this, all pending and subsequently filed cases should be consolidated into three separate tracks – a DPP track, a Consumer track, and a CIIPP track – and those tracks should be coordinated with each other.

The likelihood of prejudice or confusion from proceeding with a single track for each category of plaintiffs, and coordinating all of the tracks, is low when considering that the same facts and theories are being pursued against the same defendants by similar classes of plaintiffs in twenty separate lawsuits that are all in their preliminary stages. To the contrary, a single lawsuit will avoid the prejudice and confusion that would be caused if inconsistent adjudications were entered on common factual and legal issues in each case.

*See In re Pork Antitrust Litig.*, No. 18-cv-01776-JRT-HB, 2021 WL 5310590, at \*3 (D. Minn. Nov. 14, 2021) (“A consolidated case will decrease the risk that the Court will inadvertently enter conflicting or inconsistent rulings and, if the Court were to do so, centralizes and simplifies resolution of these issues.”).

Burdens likewise would be significantly reduced with consolidation and coordination. The parties and the Court could avoid twenty separate sets of case management orders, twenty separate sets of status conferences, twenty separate sets of scheduling orders, twenty separate sets of discovery disputes, and twenty separate trials. Judge Tunheim succinctly described the reduction of burdens when consolidating cases in the *Pork* litigation:

Consolidation will reduce the problems posed by having the

cases on separate dockets while addressing both similar and identical issues on each docket. The parties and the Court will generally need to only file in one centralized place and will not have to deal with making minor changes to satisfy the different case numbers. The parties, affected nonparties, and the Court will generally need only follow developments on one unified docket. This unified docket reduces the risk of a party or the Court making a filing error, eliminating the need for additional proceedings to address these issues and the risk of increased costs or prejudice affecting resolution of the cases on the merits. A consolidated case will decrease the risk that the Court will inadvertently enter conflicting or inconsistent rulings and, if the Court were to do so, centralizes and simplifies resolution of these issues. Finally, as the parties supporting consolidation note, a protective order applicable in one case would not necessarily apply in the other case, potentially increasing the burdens on parties and nonparties and the legal risks to parties.

*Id.*

In sum, the consolidated and coordinated structure proposed by Plaintiffs will result in consistent adjudication, reduced burden, and less time and expense. It will “secure the just, speedy, and inexpensive determination of every action and proceeding,” as encouraged by the very first, and arguably the most important, rule of civil procedure. *See Fed. R. Civ. P. 1.*

In line with these principles, Plaintiffs’ proposed order outlines for the Court’s consideration streamlined procedures for: (1) bringing subsequently filed actions to the attention of the Court so those actions can be automatically consolidated and coordinated with pending actions unless objections are filed; (2) creating and maintaining a master docket for filing in all actions; (3) handling appearances and admissions for counsel in the consolidated and coordinated actions; (4) accepting service of complaints in the consolidated and coordinated actions; and (5) setting an initial case schedule.

### III. CONCLUSION

For the above-stated reasons, Plaintiffs respectfully request that this Court consolidate the actions currently within each track and any similar subsequently filed cases, coordinate the tracks with each other, streamline procedures for counsel appearances, admissions, and service of the complaint, and enter a preliminary schedule.

Respectfully submitted,

DATED: May 29, 2024

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